

HB 3412 – IMPACT SYNOPSIS

HB 3412, a bill that made significant changes to the 1998 Gift Ban Act, was passed during the 2003 spring legislative session. Governor Blagojevich exercised his amendatory veto powers in August of this year and made changes to HB 3412. During the fall veto session the Governor's veto was overridden. Therefore, effective immediately, HB 3412, as passed during the spring legislative session, is law. What follows is a synopsis of this legislation. It is to be used only to provide an overview of the changes and is not to be used as a legal interpretation. Please refer to the Campaign Financing Act that is available for download from this site for exact language.

Contributions on state property (9-8.15): Language stating that contributions cannot be offered or accepted on a “face-to-face” basis on state property has been removed. The section now says that public officials, state employees, candidates for public office or anyone connected to a political organization cannot intentionally solicit, accept, offer, or make contributions on state property. Contributions on state property are legal if they occur in any portion of a state building that is rented or leased by a private person or entity. The provisions of this law also do not apply to the residences of State officers and employees, unless owned by the State or paid for, in whole or in part, with State funds. An inadvertent solicitation, acceptance, offer, or making of a contribution is not a violation of this section (10 ILCS 5/35) so long as they take reasonable and timely action to return the contribution. Otherwise, the Board can impose on the political committee a penalty totaling the amount of the contribution.

Fundraising in Sangamon County (9-27.5): Instead of fundraising being prohibited within 50 miles of Springfield on days the General Assembly is in session, the ban now applies only to Sangamon County. A fundraising function may not be held in Sangamon County on any day the legislature is in session from February 1 through the later of the actual adjournment dates of either house of the spring legislative session and during the fall veto session. The legislature is not considered to be in session on a day that is solely a perfunctory session day or on a day when only a committee is meeting. The ban still applies to all constitutional officers and candidates, general assembly members and candidates, and any political caucus or committee on behalf of them. The only exception is for members and candidates whose districts lie entirely within Sangamon County, and that exception begins June 1 and ends on the first day of the fall veto session. There is no longer an exception allowing lawmakers and candidates whose districts include part of the 50 mile circle around Springfield to hold fundraisers in their district when the General Assembly is in session.

The penalty for violation of this section (10 ILCS 5/40) may be the imposition of a civil penalty upon that political committee in an amount equal to 100% of that contribution.

Electioneering Communication (9-1.14): An electioneering communication is any form of communication, in whatever medium, including but not limited to, newspaper, radio, television, or Internet communications, that refers to a clearly identified candidate(s) or

political party – provided that it is made within 30 days before a general primary election or 60 days before a general election. The definition of “expenditure” (9-1.5) was amended to include an electioneering communication.

Statement of Organization (9-3): Any political committee that fails to file or files its D-1 Statement of Organization late shall be assessed a civil penalty. The penalty shall be \$25 per business day, not to exceed \$5,000. However, political committees formed to support candidates for statewide office shall be assessed a civil penalty of \$50 per business day, not to exceed \$10,000. As with other reports, no penalty shall be assessed if the D-1 is postmarked at least 72 hours prior to the filing deadline. In addition, the Board or any other affected political committee may seek a temporary restraining order or a preliminary or permanent injunction against a political committee to force the committee to cease the expenditure of funds and cease operations until its Statement of Organization is filed. And, lastly, the penalty for willfully filing a false or incomplete D-1 is now a business offense subject to a fine of at least \$1,001 and up to \$5,000.

Prohibited Expenditures (9-8.10): The list of prohibited expenditures has been left intact. However, a subsection has been added providing that nothing in the section prohibits the use of campaign funds for the “ordinary and necessary expenses” of an officeholder or candidate in connection with the performance of governmental duties. These “ordinary and necessary expenses” include, but are not limited to, expenses in relation to the operation of the district office of a member of the General Assembly.

Disclosures in political communications (9-9.5): Previously this section provided that any political literature supporting or opposing a candidate or question of public policy must contain the name of the individual or organization that authorized, paid for, or distributed the literature. According to new law, any political committee that makes an expenditure for a pamphlet, circular, handbill, radio, television, or print advertisement, or other communication directed at voters and mentioning the name of a candidate in the next election shall ensure that the name of the political committee paying for any part of the communication, including, but not limited to, its preparation and distribution, is identified clearly within the communication as the payor. This does not apply to items too small to contain the required disclosure. This disclosure requirement applies only to political committees organized under the Election Code.

Schedule A-1, Contributions of more than \$500 within the 30 days prior to an election: The contribution threshold for the filing of an A-1 is more than \$500, rather than \$500 or more. These Schedule A-1 forms must be filed with and received by the Board within two business days. If a committee is required to file electronically, its A-1s must also be filed electronically. If a committee is not required to file its reports electronically, its A-1s may still be faxed.

The date of receipt of an inkind contribution was clarified to mean two business days rather than two days, in the case of goods or services, after receipt of the inkind contribution notification form required under subsection (b) of Section 9-6.

This new law states that in the final disposition of any A-1 violation before the Board after the effective date of this legislation, the Board may impose fines not more than the amount of the contributions that were untimely reported, but, if the Board chooses to assess penalties, the fines must be at least 10% of the total. Factors to be taken into consideration when considering the amount of a fine are whether, in the Board's opinion, the violation was committed inadvertently, negligently, knowingly, or intentionally; the number of days the contribution was reported late; and past reporting violations.

Ballot forfeiture (9-30): The ballot forfeiture section of the law has been moved from section 9-23 to a separate section. This section states that the name of a person who has not paid a civil penalty imposed against him or her under Article 9 shall not appear upon any ballot for any office in any election while the penalty is unpaid.

Raffles (230 ILCS 15/8.1): The subsection of the raffle law which mandated that a political committee must be on file with the Board for a period of one year before it may apply for a license to hold a raffle was deleted. A political committee may apply for a raffle license as soon as it files a D-1 Statement of Organization with the Board.

A political committee is ineligible to receive a raffle license if it either owes a civil penalty to the Board or is the subject of an unresolved claim for a civil penalty. A committee whose fine has been stayed may apply for a raffle license.